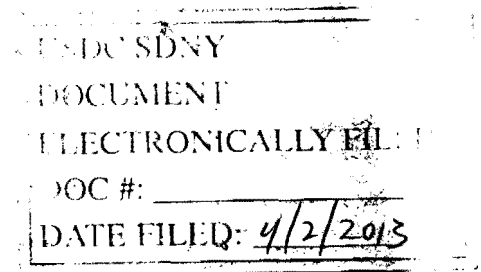


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Robert A. Wallner
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March 27, 2013

VIA FACSIMILE

The Honorable Victor Marrero
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Anwar v. Fairfield Greenwich Ltd.*, Master File No. 09-0118 (VM)

Dear Judge Marrero:

We represent the *Morning Mist* Derivative Plaintiffs, who objected to the now-approved partial settlement in the above-matter. See ECF Nos. 1047, 1049, 1097. We respectfully request a pre-motion conference to address a motion for reconsideration, pursuant to Local Rule 6.3, in light of the Supreme Court's decision today in *Comcast Corp. v. Behrend*, No. 11-864, 2013 WL 1222646.


In *Comcast*, the Supreme Court reversed a class certification order because the plaintiffs' damages model failed to measure *only* those damages attributable to the putative class's claims.¹ Here, the settling parties have structured a settlement, among other things, to prevent the *Morning Mist* plaintiffs from prosecuting the derivative case against the Fairfield Greenwich defendants, even though (i) the *Anwar* plaintiffs cannot assert the derivative claims, and (ii) the derivative case is far stronger than the class case, and its damages are far larger than those here. Such a settlement, we submit, is improper under *Comcast*.

¹ See *Comcast*, at § III.A ("If [plaintiffs] prevail on their claims, they would be entitled only to damages resulting from reduced overbuilder competition, since that is the only theory of antitrust impact accepted for class-action treatment by the District Court."); *id.* (damages model "must be consistent with [plaintiffs'] liability case") (quotations and citation omitted).

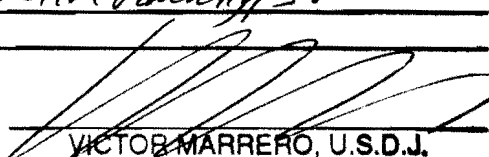
The Honorable Victor Marrero
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Accordingly, we respectfully request that the Court schedule a pre-motion conference.

Respectfully,


Robert A. Wallner

cc: David A. Barrett, Esq. (by email)
Helen V. Cantwell, Esq. (via email)
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Sean F. O'Shea (via email)
Glen Kurtz (via email)
Edward M. Spiro (via email)
Victor E. Stewart, Esq. (via email)
Stephen A. Weiss, Esq. (via email)

The parties are directed to respond by 4-3-13, by letter not to exceed three (3) pages, to the matters set forth above by the Morning Mkt Derivative Plaintiffs.	
SO ORDERED:	
3-29-13	
DATE	VICTOR MARRERO, U.S.D.J.

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MILBERG LLP